

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

WILLIAM SILVA,)	
Plaintiff,)	
)	Civil Action No. 13-10572
v.)	
)	COMPLAINT
F/V SILVER FOX LLC AS OWNERS OF THE)	
F/V SILVER FOX)	
Defendant.)	

THE PARTIES

1. The plaintiff, William Silva, resides at 23 Hydraulion Avenue, Bristol, RI.
2. The defendant, F/V SILVER FOX LLC, is a duly organized entity existing under the laws of New Jersey, and at all times hereinafter referred to, owned, operated and/or controlled the F/V SILVER FOX, which did business in the Commonwealth of Massachusetts and employed the Plaintiff.

JURISDICTION

3. This is a case of maritime jurisdiction pursuant to 28 U.S.C. § 1333(1).

FACTUAL ALLEGATIONS

4. On or about April 24, 2010 the defendant employed the plaintiff as a deckhand and member of the crew of the F/V SILVER FOX.
5. While the F/V SILVER FOX was in navigable waters, and while the Plaintiff was in the exercise of due care, the defendant's negligence caused him to be injured.
6. As the F/V SILVER FOX, a commercial clamming vessel, was in the process of setting its gear, a fellow crewmember of the F/V SILVER FOX fed equipment too quickly to the

- Plaintiff. The Plaintiff became entangled in the equipment and was dragged overboard.
7. The captain of the vessel, John Zuzick, immediately performed a man overboard rescue turn, but the vessel's propeller became fouled in the clam hose, causing the vessel to lose maneuverability and propulsion and she began to drift.
 8. The captain attempted to rescue the Plaintiff with the vessel's life ring, but it was equipped with a rope that was too short to reach the Plaintiff.
 9. The captain put on a survival suit and swam to the Plaintiff.
 10. After reaching the Plaintiff, Mr. Zuzick suffered a heart attack and died.
 11. The Plaintiff was later rescued by a Coast Guard Helicopter.

COUNT I
JONES ACT
(Negligence)

12. Paragraphs 1-11 are realleged and incorporated herein.
13. The injuries sustained by the Plaintiff were caused by the fault of the defendant, its agents, or servants as follows:
 - a) Failure to use due care to provide and maintain a seaworthy vessel with safe and proper appliances;
 - b) Failure to use due care to make reasonable and periodic inspection of said vessel, its equipment and appliances;
 - c) Failure to use due care to furnish the Plaintiff with a reasonably safe place in which to perform his work;
 - d) Failure and negligence of fellow employees;
 - e) Failure and negligence in other respects that will be shown at the trial.

14. As a result of the injuries, the Plaintiff suffered great pain of body and anguish of mind and suffered other damages as will be shown at the trial.
15. This cause of action is brought under the Merchant Marine Act of 1920, commonly called the Jones Act 46 U.S.C App. § 30104.

REQUEST FOR RELIEF

- a) Under Count I, that this court enters judgment in favor of the Plaintiff against the defendant.
- b) For such other relief as this court deems appropriate.

COUNT II
GENERAL MARITIME LAW
(Unseaworthiness)

16. Paragraphs 1-15 are realleged and incorporated herein.
17. The injuries sustained by the Plaintiff were caused by the unseaworthiness of the defendant's vessel, its appliances, appurtenances and equipment.
18. As a result of the injuries, the Plaintiff suffered great pain of body and anguish of mind and suffered other damages as will be shown at trial.
19. This cause of action is brought under the General Maritime Law based upon unseaworthiness and is for the same cause of action as Count I.

REQUEST FOR RELIEF

- a) Under Count II, that this court enters judgment in favor of the plaintiff against the defendant.
- b) For such other relief as this court deems appropriate.

COUNT III
GENERAL MARITIME LAW

(Maintenance and Cure)

20. Paragraphs 1-19 are realleged and incorporated herein.
21. As a result of injuries sustained by the Plaintiff, the plaintiff has incurred expenses for his maintenance and cure and will continue to do so all to his damage.

REQUEST FOR RELIEF

- a) Under Count III, that this court enter judgment in favor of the plaintiff against the defendant.
- b) For such other relief as this court deems appropriate.

PLAINTIFF DEMANDS TRIAL BY JURY ON ALL COUNTS.

Respectfully submitted
For Plaintiffs,
By their attorneys,

/s/ Brian Keane
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